

1893-012 Chancery Causes: Briscoe Sweepson & Co] vs. D. B. Bales & Co
Lee Co.

Briscoe, Sweepson, Arnold, Robinson, Surgenner, Orr,
Surgenner Bales & Co]

CA-Debt

T-Property

To the Honorable H. S. K. Morrison, Judge of
Circuit Court of Cal Co., V².

Your orators, Daniel Briscoe, A. J. Briscoe,
R. R. Simpson and M. S. Arnold merchants
and partners in trade, trading under the firm
and style name of Briscoe, Simpson & Co.,
humbly complaining would respectfully
represent unto your Honor, that
at the last August term of your Honor's
successor's court on the law side thereof, they
obtained a judgment against D. B. Bales
and H. Robinson survivors of themselves
and of A. R. Surgenor died. who were late
merchants and partners in the retail gro-
cery business, under the firm name of Sur-
genor, Bales & Co. for \$9425.76 with
legal fee \$762.65 from the 16 day of April
and on \$180.11 from the 84 day of May 1885, Subject to a credit
1885 till paid, and \$9.44 their costs recov-
ered in law; an abstract of which judge-
ment is here filed and marked "A" and pray-
ed to be considered with this bill of Complaint
that a fi. fa. was issued upon said judge-
ment from the circuit court clerk's office
and put in the hands of S. H. Zwing deputy
for R. D. Flanary high sheriff of said
county, and was returned to the said Clerk's
office with this return upon it.

a copy of which fi. fa. is here filed
as exhibit "B"; that the said A.R. Surgen
departed this life about the day of
1885 seized and possessed of large and
valuable estate; that letters of administra-
tion by the county court was granted to J.
H. Orr upon the said estate of said Surgen-
er; that in the creditors suit of Wm. E.
Burns & Co vs. J. H. Orr & Amr. & Co, it was
now pending in this court by the report of
the Court. By this it is shown that the
estate of A.R. Surgen is individually in-
debted to D. B. Bales & and to Wm.
Robinson &

And your orators would fur-
ther show your honor that the said
D.B. Bales and Wm Robinson are several-
ly seized and possessed of valuable tracts
of land, copies of the deeds to which are
here filed and marked "D.B." & "W.R.",
and prayed to be considered as a part of
their bill of complaint; that they are
advised that their judgment is a
lien upon all the lands to which the
said Bales and Robinson were en-
titled at or after the date of their
judgment; that the lien of
your orators said judgment is only
enforceable in a court of equity, they

creditors at law; and 8th
rents and profits of said lands
not pay said judgement in-
terest and cost at law, and the
cost of this suit within five years.
Therefore with these premises your
orators humbly pray your Honor to
take cognizance of their cause and to
enforce their lien by proper decree
of sale of the said land; that J. H. Orr
Admr. of the estate of the said A. R.
Surgener be prohibited and enjoined
from paying over to the said D. B. Bales
or ^{Mr} Robinson any moneys that ^{he} may
have in his hands as such Admr., un-
til it is seen that the said lands of the
said D. B. Bales and ^{Mr} Robinson will fully
pay your orators said judgement lien;
that D. B. Bales and ^{Mr} Robinson and
J. H. Orr Admr. of the estate of A. R.
Surgener be made parties defendants
to this bill of complaint and be
required severally to answer the same
their oaths as fully and effectually
as if each of them had been thereto
specially interrogated; and ~~particu-~~
larly that the said J. H. Orr Admr. &c
answer the several Amts. due the
said Bales and Robinson from his

Briscas, Surpass & Co

W & Bice in Cham.

L.B. Bales & Co

1887 March Bill filed. She

executed & Decree made

April D. B. Conf. to

Cause set for hearing

" Decree & Continued

1888 Continued This Year

1889 " " "

1890 " " "

1891 " " "

1892 " " "

1893 March Continued

" June Decree final

& Costs \$3,496.

intestate as shown by Comr. Hyatt's
report filed in the cause of W.E.
Burns Exr vs. J. H. Orr Admr. & also
now pending in this Circuit Court
and that such other and further
relief be granted to your orators
as is adapted to the nature of
their cause, and agreeable to ex-
plicity and good conscience. May sum-
mons issue &c. And your your
Orators will ever pray &c

Samuel & Cunningham
D. J.

To the Hon. H.S.R. Merison Judge of the Circuit
Court of Lee County Va.

The Separate answer of Daniel B. Bales one of the
Surviving partners of the late firm of Surgeon Bales & Robinson
to a bill filed in this Honorable Court against him and
said Robinson jointly by Briscoes Lumber Co.

Respondent says that plaintiffs allegation is not
true when they allege that respondents lands will not
in five years renting pay all that is due them. The
truth is that they will pay all judgments against
respondent in the course of five years time or less and
your orator is advised that your tract will not deem
land to be sold to pay an ordinary judgment when
the rents and profits thereof will pay the same in
five years time.

Respondent is willing that plaintiffs take and asser-
tinate any debt or demand due him from A.R. Surgeons
estate to the payment of the plaintiffs claim against him
and if plaintiffs will accept the same in that way, asser-
tate will make them an assignment thereof.

Respondent says it is true A.R. Surgeon died
intestate in this county in the month of Sept. 1885, the
owner of valuable real and personal estate and that
J.W. Orr became admr. of his estate. And that in the
suit referred to, a claim was allowed respondent, as to
respondent and said Robinson as survivors of said firm
against the estate of said Surgeon.

It is also true that respondent owns valuable real estate
and he supposes his co-adjt Robinson likewise owns land

the rents and profits of all which respondent supposes is liable to be taken and applied to the payment of the plaintiffs demand

Respondent supposes it is also true that the plaintiffs did obtain the judgment at law referred to of \$742.76 with interest and cost as therein stated subject to a credit of \$150.00 paid August the 18th 1885. and this credit is properly entered on the note on which said judgment was rendered as shown by a receipt herewith filed marked (A.B)

Since said judgment was rendered to wit on the 20th day of August 1886 there was paid on said judgment to the attorneys of the plaintiffs the sum of \$16.00 which was to be credited on said judgment, as shown by an ~~affidavit~~ receipt attached as part of this answer marked (B.C)

Now Respondent now states that at the time said judgment was rendered, their right to have been credited therein the further sum of \$50.00 paid the plaintiffs the 11th day of May 1885 as is clearly shown by their receipt herewith filed as a part of this answer marked (D.E) and by reference thereto it was paid to the plaintiffs three months and 7 days before the \$150.00 was paid which is credited in the judgment.

And respondent now prays your Honor to order the sum to be credited on said judgment at law as of May 11 1885 together with said payment of \$16.00 above shown

Respondent now files herewith as a further part of this answer the original action at law in which said judgment was rendered marked (A.F) by reference to which it will be seen that said action was founded on a note dated

49 Respondent further says that on the 30th day of March 1887 there was paid on said judgment, the sum of \$100, as shown by the receipt of the Plaintiff's attorney herewith filed as a part of this answer marked (F.E.)

April 16-1885 for \$762.65 and an open account contracted May the 8-1885 of \$180.11 so that it is manifest that the \$50.00 paid May 11-1885 25 days after said note was given and three days after said account was made was in fact a payment upon one of them and ought to be allowed as such

Respondent now states ^{that} until long after the death of the said A.R. Sargen, he had nothing to do with the active management and conducting of the business of Sargen Bros and knew but little of the details of its business and that the same was managed and conducted by said A.R. Sargen, his son S.S. Sargen for said W.M. Robinson and if the same was not conducted in a careful manner it was certainly conducted in a careless one

At the time said action at law was instituted respondent knew but little of any thing in relation to the business of said firm, and supposing the plaintiff's demand to be just he paid but little attention to the suit and suffered judgment to be entered against him by default, but since that time he has been compelled to examine into its matters, and in doing so, found said two receipts, one of which is properly credited and the other is not, and believing it just that he should have credit therefor he confidently asks that the ^{same} be allowed him as a credit on said judgment, which he is advised a court of equity will do under the facts of the case

Respondent having now answered as fully as advised it respectfully prays that Poff's bill be dismissed respondent demand his costs.

Henry J. Wray for Bales.

I do solemnly Swear that the statements of the foregoing
answer so far as made on my own knowledge are true
and so far as made on information derived from others
I believe them to be true so help me god.

D. B. Bates

Sworn to and subscribed before me the 30th day of March/88

H. J. Wengert

Daniel B. Bates

Ans. } Answer

Witnesses: Wengert & Co

Filed March 30th 1888.

J. H. Wengert & Co.

7/16

Rec'd of Surgeon, Bates & Co
Sixteen dollars on the claim in
~~the~~ our hands for Briscoes,
Surgeon & Co this Aug 28th 1886

Duncan & Pennington
Atty's for Briscoes, Spearman & Co

(A6)

Briscon, Swifcon Ho

To 1 Receipt

£16⁰⁰

BRISCOES, SWEPSON & CO.,
Importers and Wholesale Dealers in
DRY GOODS, NOTIONS, BOOTS, SHOES AND HATS,
202 AND 204 GAY STREET, KNOXVILLE, TENN.

KNOXVILLE, TENN., August 18 1885

RECEIVED FROM MESS. *Surgener, Bales & Co.*

One Hundred and Fifty, x DOLLARS,

On their note at 1 day April 16/85 for \$762.65

IN SETTLEMENT OF

BRISCOES, SWEPSON & CO.

Per Bolli.

\$ 150. $\frac{00}{x}$

This receipt is credited

(A.B.)

Briscoe Simpson the Compt's

vs } In Chancery

N. B. Bates et al's Defts.

This cause came on again this day to be heard upon the papers formerly read therein. And it being stated by C. J. Sencman at bar that all debts mentioned in said cause have been paid and nothing being unpaid therein except the costs in said cause - It is therefore adjudged, ordered and decreed that said plaintiffs recover of said defendants, the costs of this suit to be taxed by the clerk of this Court and when so taxed execution may issue therefor, And this cause is stricken from the docket.

Sound Biscuit the
20 f. Ocean Liner

D.B. Biscuit

Entered on OVB

Page 496

June 9, 1893

J. A. Bryant C

Enter this date
June 9th 1893.

W. S. K. M.

Briscoes. Anjoan vs. Pltff
vs. 3 In chcy.
D.B. Balis et al, Dfts

and
W.B. Loebett vs. Pltffs
vs. 3 In chcy.
The same. Dfts

These causes came on this 30th day of March 1887, to be heard together upon the bill of the Plaintiffs in each of said causes and exhibits therewith. The answer of D.B. Balis one of said Defendants this day filed in the cause and general replication thereto, and was argued by counsel. On consideration whereof it is adjudged ordered and decreed That the Plaintiffs in the first above styled cause recover of the Defendants, D.B. Balis and William Robinson the sum of nine hundred & fifty two $\frac{20}{100}$ dollars with legal interest on \$762.68 part thereof from the 16th day of April 1885 and on \$180.11 another part thereof from the 8th day of May 1885 till paid and the costs of the said first named cause to be taxed by the court. Subject to a credit of fifty dollars paid on the 11th day of May 1886 One hundred & fifty dollars paid August the 18th 1886. Sixteen dollars paid

on the 23rd day of August 1886 and one hundred dollars paid on the 30th day of March 1887 (for which a receipt is given) and that the plaintiffs in the second named cause recover of said Defendants D.B. Bales and William Robinson, the sum of Three hundred and Forty Eight dollars and 51 cents with legal interest on \$336.15 from the 22 day of September 1885 till paid and the costs of said suit to be taxed by the Clerk, subject to a credit of one hundred and twenty dollars paid on the 5th day of November 1885 Twenty ^{Two} dollars paid July 5th 1886 and eighty dollars paid September 23rd 1886. And it is further adjudged ordered and decreed that unless said D.B. Bales and William Robinson or some one for them shall pay the said two sums herein before decreed against them within 40 days from the rising of this Court then C.T. Duncan who is appointed a commissioner for the purpose shall proceed to rent all the lands owned by each of said two Defendants for the shortest length of time for which they will rent for a sum sufficient to pay said debts interest and costs and the costs and Commission of rent

ing Said renting shall be at public
outcry to the highest bidder, at the front
door of the Court house, or if deemed more
advisable by said Commissioner he may
rent privately, in either event said Com-
missioner will require cash enough paid
down in cash to pay the costs of each rent
and the costs and commissions of renting.
If the said Commissioner determines to
rent publicly, he will give notice of the
time and place of renting by posting writ-
ten notices thereof at three or more pub-
lic places in said County, one of which
shall be on the Court house door and another
in the neighborhood where said lands
lie. For at least thirty days before day
of ^{renting} sale, for the said sums for which he leases
said land the Commissioner will take
bonds, ^{with good security} due in yearly installments
bearing interest from date, but before
proceeding to rent said Commissioner
will execute bond before the Clerk of this
Court in a penalty of \$1500 conditioned
to faithfully account for all sums receiv-
ed by him in this cause. He will report
his action from time to time to this Court
and the cause is continued.

Briscoe's Swiftest

no 3 Diaria vol.

DB Ballo et al.

Entericup ag 20

Entericup diaria

H. S. N. M.

March 20th 1887

The Commonwealth of Virginia,

To the Sheriff of Lee County--Greeting:

We Command You, That of the Goods and Chattels of D. B. Bales and
William Robinson
on 762.45 from April 16th 1885, and on \$180.11 the residue
late in your Bailiwick, you cause to be made \$ 942.76, with legal interest thereon from the 8th day of
May, 1885, till payment, which Briscoes, Swepson & Co

lately in our Circuit Court of Lee County, have recovered against them by suit for Debt
Also, \$ 9.44, which to the said Briscoes, Swepson & Co
in our Court were adjudge for their costs in
that behalf expended, whereof the said

Bales & Robinson convicted, as appears to us of record. And that you
have the same before the Judge of our said Court at the Court House on the first Monday in November
next, to render to the said Briscoes, Swepson & Co
of the Debt and costs as aforesaid. And have then and there this Writ.

Witness, J. A. G. HYATT, Clerk of our said Court, at the Court House, this 7th day of Sept

1886, in the 10 year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy
Teste J. A. G. Hyatt c c

65.69
8 1.00
a 2.50
c.c. 25-
89.44

227/ Circet D.V.P.
Aug. 30/886.

Briscoe's Senequa Co

vs 3 H's Fa

Bales + Robinson

To Nov. Rules 1886

not executed
no property
found

S. H. Leving
Deputy for

R. D. Flanagan
S. L. C.

Attest

Teste J. A. Shatt
cc

Fee for copy 40¢

Per Aug. 1888-

188.00

Virginia:

The Circuit Court for the County of Fairfax To wit:

Daniel Briscoe, A. J. Briscoe, R. R. Swenson, S. L. Dismukes and M. D. Arnold Merchants and partners trading under the firm name of Briscoe, Swenson & Co. plaintiffs Complain of William Robinson and Daniel B. Bales survivors of themselves and A. R. Surgenor late merchants and partnership trade under the style and firm name of Surgenor, Bales & Co. defendants of a plea that they render unto the said plaintiffs the sum of Nine hundred and forty two dollars and 76 cents, which to the plaintiffs the said defendants owe and unjustly detain: For this to wit, that heretofore to wit: on the 16th day of April, 1885 the said defendants ~~together with~~ the said A. R. Surgenor ~~with their firm name of Surgenor, Bales & Co.~~ ^{their living made and signed} and then ^{to the said plaintiffs} delivered their certain note in writing commonly called a promissory note, the date whereof is the day and year aforesaid and thereby promised to pay to the said plaintiffs by their firm name of Briscoe Swenson & Co. one day after the date of said writing promissory the sum of \$762.⁶⁵/₁₀₀ parcel of the ~~sum of~~

\$942.76⁺ first above demanded with in-
terest at the rate of 6% per annum
from date
till paid;—

And for this also: that heretofore, to
wit, on the 8th day of May 1885 the said
^{the said A.R. Surgenor then living}
defendants, were indebted to the said plain-
tiffs in the further sum of One hun-
dred and eighty dollars and 11⁺ cents,
for divers wares, goods and merchandise
before that time sold and delivered by the
said plaintiffs to the said defendants, &
at their special instance and request.

\$79.55⁺ of which last named sum to be
paid 4 months after the date of said
sale and delivery, and \$100.56 the re-
sidue of the said \$180.11⁺ to be paid by the
said defendants 60 days after the sale
and delivery of said goods, wares &
merchandise: Whereby and by reason of
the above mentioned sum of money of
\$180.11⁺ being and remaining ^{wholly} unpaid, an
action hath accrued to the said plaintiffs
to have of and from the said defend-
ants the said sum of \$180.11 last above
named the residue of the said sum
of \$942.76⁺ first above demanded

Yet the said defendants,
nor any or either of them
although often requested, have not
as yet paid to the said plaintiffs

or either of said plaintiffs at any
time either before or after the death
of the said A.R. Surgenor the said
sum of \$942.76. first above demanded
nor any part thereof, but to pay the same
hath hitherto wholly failed, refused &
neglected and still doth fail and re-
fuse and neglect, to the damage of the
said plaintiffs \$942.76⁴. And therefore
he brings his Suit.

Samuel Huntington
P.S.

500
Briscoe, Spewson & Co

vs { Deht

D.B. Bales et al Survivors &c
+ of Sargents, Bales & Co

1886 July Deel. filed

" Sum. Exd & C. O.

" Aug. C. O. Conf'd

" " Term Indgt final

OB 535-

(A8)

Cl 5.69

\$ 1.00

of 2.50

Co le 25)

9.44

\$ 762 $\frac{65}{100}$

April 16th

1886

One day after date we the undersigned, of Douglas
Lee County, State of W. Va. for value received, promise to pay to the
order of ~~George~~ J. Briscoes, of Chocoma, Tennessee, the sum of

Seven hundred fifty Two $\frac{65}{100}$ Dollars,
payable at

WITH INTEREST AT 6 PER CENT, FROM date UNTIL PAID. THE MAKER AND ENDORSER EACH HEREBY WAIVE AS TO THIS DEBT THE EXEMPTION FROM
LIABILITY OF THE PROPERTY WHICH they MAY BE ENTITLED TO HOLD EXEMPT UNDER THE PROVISIONS OF THE HOMESTEAD LAW; AND ~~IF SUIT IS INSTITUTED UPON THIS NOTE~~
~~AGREE TO PAY TEN PER CENT ATTORNEYS FEES AND ALL EXPENSES INCURRED IN ITS COLLECTION, SAME TO BE TAXED UP IN JUDGEMENT.~~

No. 67

Due

James Bales Jr. (SEAL.)
By A. R. Lusk (SEAL.)

Received on within

1885

Aug. 18th. Cash \$150.00

INTEREST CHARGED AFTER MATURITY.

Folio 516

MONTHLY STATEMENT.

Knoxville, Tenn. Apr. 23 1885.

Messrs. Surgeon Douglas & Co.
Knoxville, Tenn.

TO

BRISCOES, SWEPSON & CO.

DR

1885

To Bal. as per Statement rend

To Mdse as per Bill rendered

Recd
Apr

79 55
100 56

Interest

180 11

354

\$183.65

GENTLEMEN:—Our custom is to render a statement at beginning of each month of purchases made of us, whether same be due or not, that our customers may compare with their books and report if not correct. Amounts checked in red are now due, and we shall feel obliged by an early remittance.

Yours truly,

BRISCOES, SWEPSON & CO.

The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU to summon

Daniel B. Bales and
William Robinson Survivors of themselves and
A. R. Surgenor, late merchants and
partners in Trade, trading under the
firm name and style of
"Surgenor Bales & Co."

to appear at the Clerks office of the Circuit Court of Lee County, at the Court House, on the first

Monday in

July next to answer Daniel Biseac, A. J. Biseac
R. R. Lueprow & M. D. Arnold merchants and partners in
Trade, trading under the firm name & style
of
"Biseac Lueprow & Co."

upon a plea of Debt for \$942.76 . Damage, \$ 942.76

And have then and there this Writ.

Witness, J. A. G HYATT, Clerk of our said Court, at the

Court House, this 28th day of June, 1886, in the 110 year of the

Commonwealth,

J. A. G. Hyatt Clerk.

Received of D.B. Bates & Co. One hundred dollars
 to be applied as a credit on a Judgment of the
 Circuit Court of the County of Va in favor of Brice
 Cook Swenson & Co vs D.B. Bates and Wm Robinson
 Survors of themselves and A.R. Surquon late
 Merchants Trading under the firm name and style
 of Surquon Bates & Co. This the 30th day of March 1887
 Duncan & Pennington
 Attorneys.

(A3)

The Commonwealth of Virginia,

To the Sheriff of LEE COUNTY--Creeting:

WE COMMAND YOU to summon L. B. Bales and William
M. Robinson Survivors of themselves and A. R. Surgenor
late merchants and partners trading under the firm
name and style of "Surgenor Bales & Co." and
James M. Orr Administrator of said A. R.
Surgenor deceased

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House
on the first Monday in March next, being Rule Day, to answer a
Bill in Chancery exhibited in our Court against them, by Daniel
Briscoe, A. J. Briscoe, R. R. Suepson and M. D.
Arnold merchants and partners in Trade
under the firm name and style of
"Briscoe Suepson & Co."

And have then and there this Writ. Witness, J. A. G. HYATT, Clerk of our said
Court, at the Court House, this 24th day of February 1887 in
the 11th year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste:

(243)

Briscoe Simpson & Co

vs ³/₃ Spw in Chcy

D. B. Balco et al

To March Rules 1887

Executed by deliver
ing a true office
Copy of the within
to D B Balco memo
5/1887

J H Cunningham
for R J Haney
J L C